

FILED  
U.S. DISTRICT COURT  
IN THE UNITED STATES DISTRICT COURT MIDDLE GEORGIA  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION 2009 MAR 25 AM 11 51

JOHN R. NEWBERN, :  
Plaintiff, : *WKS*  
v. : DEPUTY CLERK  
Sheriff WINSTON C. PETERSON, :  
Defendants. :  
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ORDER

Before the Court is the Report and Recommendation from United States Magistrate Judge Richard L. Hodge, filed December 9, 2008. (Doc. 13). It is recommended that Respondent's Motion to Dismiss (Doc. 10) be granted because Petitioner has failed to exhaust available state judicial remedies. *Id.* No objection has been filed to date.

Upon full review and consideration upon the record, the Court finds that said Report and Recommendation (Doc. 13) should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein. Accordingly, Respondent's Motion to Dismiss (Doc. 10) is **GRANTED**. Petitioner's habeas corpus petition (Doc. 1) is **DISMISSED WITHOUT PREJUDICE** to Petitioner's right to refile once he has exhausted the remedies available to him in the state court system.

SO ORDERED, this 24<sup>th</sup> day of March, 2009.

  
THE HONORABLE W. LOUIS SANDS,  
UNITED STATES DISTRICT JUDGE